

Introduced by Senator Morrow

February 22, 2006

Senate Constitutional Amendment No. 25—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 19 of Article IV thereof, relating to gaming.

LEGISLATIVE COUNSEL'S DIGEST

SCA 25, as introduced, Morrow. Tribal-state gaming compacts.

The federal Indian Gaming Regulatory Act of 1988 provides for the negotiation and execution of tribal-state gaming compacts for the purpose of authorizing certain gaming activities on Indian lands within a state. The California Constitution authorizes the Governor to negotiate and conclude, subject to ratification by the Legislature, tribal-state gaming compacts, and existing law ratifies specified gaming compacts.

This measure would prohibit the Governor from concluding gaming compacts for the operation of any gaming activity, as specified, with any Indian tribe if that gaming activity, or any portion thereof, would be conducted in an urban area, as defined.

As to a tribe that possessed Indian land in California on July 1, 2006, with regard to a compact with the tribe for the operation of any gaming to be conducted on Indian land that is not in an urban area, the measure would prohibit the Governor from concluding a gaming compact with the tribe if that Indian land was not possessed by the tribe on July 1, 2006, as specified, unless that gaming activity has been approved by voters of the city or county in which the gaming activity is to be located and also by the board of supervisors of the county in which the tribe is located.

The measure would additionally prohibit the Governor from concluding a compact with an Indian tribe for the operation of any gaming activity, as specified, as to a tribe that did not possess Indian land in California on July 1, 2006, unless the land subsequently acquired, on which the gaming is to be conducted, is not in an urban area, the tribe's primary geographic, social, and historical connections relate to that land, and the gaming activity has been approved by voters of the city or county in which the gaming activity is to be located and also by the board of supervisors of the county in which the tribe is located.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

1 WHEREAS, The federal Indian Gaming Regulatory Act of
2 1988 (IGRA) authorizes federally recognized Indian tribes to
3 conduct class III gaming on Indian lands, as defined by IGRA, to
4 the extent those games are permitted by state law, and pursuant
5 to a gaming compact negotiated between a tribe and the state;
6 and

7 WHEREAS, In 1998, California voters approved Proposition
8 5, a statutory measure designed to allow for the operation of slot
9 machine and house banked card gaming by California Indian
10 tribes on Indian lands in accordance with federal law; and

11 WHEREAS, In 2000, California voters approved Proposition
12 1A, a measure that amended the California Constitution to
13 authorize the Governor to negotiate and conclude compacts,
14 subject to ratification by the Legislature, for the operation of slot
15 machines, lottery games, and banked and percentage card games
16 by federally recognized Indian tribes on Indian lands in
17 California in accordance with federal law; and

18 WHEREAS, During the campaigns to approve Propositions 5
19 and 1A, California voters were assured that approval of these
20 measures would not result in tribal casinos being located in urban
21 areas; and

22 WHEREAS, The constitutionality of tribal exclusivity over the
23 forms of gaming authorized by Proposition 1A is premised upon
24 the limitation of these activities to Indian lands; and

25 WHEREAS, There are over 100 federally recognized Indian
26 tribes in California and many of those tribes already have Indian

1 lands within the meaning of IGRA that are eligible for class III
2 gaming; and

3 WHEREAS, Since 1999, 64 gaming compacts have been
4 concluded and ratified; and

5 WHEREAS, In the general election of 2004, two initiative
6 measures, Propositions 68 and 70, which would have expanded
7 gaming activities in urban areas, were placed before the voters of
8 California and were defeated with more than 75 percent of voters
9 voting against the measures; and

10 WHEREAS, The general election outcome expressed the
11 public's clear opposition to urban gaming and demonstrates the
12 need for reasonable and rational constraints on further expansion
13 of Indian gaming; now, therefore, be it

14 *Resolved by the Senate, the Assembly concurring*, That the
15 Legislature of the State of California at its 2005-06 Regular
16 Session commencing on the sixth day of December 2004,
17 two-thirds of the membership of each house concurring, hereby
18 proposes to the people of the State of California, that the
19 Constitution of the State be amended as follows:

20 That Section 19 of Article IV thereof is amended to read:

21 SEC. 19. (a) The Legislature has no power to authorize
22 lotteries, and shall prohibit the sale of lottery tickets in the State.

23 (b) The Legislature may provide for the regulation of horse
24 races and horse race meetings and wagering on the results.

25 (c) Notwithstanding subdivision (a), the Legislature by statute
26 may authorize cities and counties to provide for bingo games, but
27 only for charitable purposes.

28 (d) Notwithstanding subdivision (a), there is authorized the
29 establishment of a California State Lottery.

30 (e) The Legislature has no power to authorize, and shall
31 prohibit, casinos of the type currently operating in Nevada and
32 New Jersey.

33 (f) Notwithstanding subdivisions (a) and (e), and any other
34 provision of state law, *but subject to subdivisions (h), (i), (j), and*
35 *(k)*, the Governor is authorized to negotiate and conclude
36 compacts, subject to ratification by the Legislature, for the
37 operation of slot machines and for the conduct of lottery games
38 and banking and percentage card games by federally recognized
39 Indian tribes on Indian lands in California in accordance with
40 federal law. Accordingly, slot machines, lottery games, and

1 banking and percentage card games are hereby permitted to be
2 conducted and operated on ~~tribal~~ Indian lands subject to those
3 compacts.

4 (f)

5 (g) Notwithstanding subdivision (a), the Legislature may
6 authorize private, nonprofit, eligible organizations, as defined by
7 the Legislature, to conduct raffles as a funding mechanism to
8 provide support for their own or another private, nonprofit,
9 eligible organization's beneficial and charitable works, provided
10 that (1) at least 90 percent of the gross receipts from the raffle go
11 directly to beneficial or charitable purposes in California, and (2)
12 any person who receives compensation in connection with the
13 operation of a raffle is an employee of the private nonprofit
14 organization that is conducting the raffle. The Legislature,
15 two-thirds of the membership of each house concurring, may
16 amend the percentage of gross receipts required by this
17 subdivision to be dedicated to beneficial or charitable purposes
18 by means of a statute that is signed by the Governor.

19 (h) *The Governor shall not conclude any compact for the*
20 *operation of any gaming activity described in subdivision (f) with*
21 *an Indian tribe if that gaming activity, or any portion thereof,*
22 *will be conducted in an urban area. For purposes of this section,*
23 *"urban area" means any of the following:*

24 (1) *Any city that has a density equal to or greater than 1,000*
25 *people per square mile. For purposes of this section, "city"*
26 *includes a city and county.*

27 (2) *Any county that has a density equal to or greater than*
28 *1,000 people per square mile.*

29 (3) *The area within 10 miles of the border of any city or*
30 *county described in paragraph (1) or (2).*

31 (i) *As to an Indian tribe that possessed Indian land in*
32 *California on July 1, 2006, with regard to a compact with the*
33 *tribe for the operation of any gaming activity described in*
34 *subdivision (f) on or after July 1, 2006, to be conducted in an*
35 *area on Indian land that is not an urban area, if that Indian land*
36 *was not possessed by the tribe on July 1, 2006, the Governor*
37 *shall not conclude the compact unless that gaming activity, or*
38 *any portion thereof, has been approved in the following manner:*

39 (1) *If the gaming activity is proposed to be conducted within*
40 *the city limits of a city, the gaming activity is subject to approval*

1 by a majority vote of the voters of the city, for which purpose the
2 governing body of the city shall have the following question
3 placed on the ballot of the next regularly scheduled citywide
4 election: “Shall the [name of tribe] conduct [description of
5 gaming activities] within the city limits of [name of city]?” As an
6 additional condition, the board of supervisors of the county in
7 which the tribe is located shall have approved, by majority vote,
8 a resolution permitting the proposed gaming activity within the
9 city.

10 (2) If the gaming activity is proposed to be conducted in the
11 unincorporated area of a county, the gaming activity is subject to
12 approval by a majority vote of the voters of the county, for which
13 purpose the board of supervisors shall have the following
14 question placed on the ballot of the next regularly scheduled
15 countywide election: “Shall the [name of tribe] conduct
16 [description of gaming activities] in the County of [name of
17 county]?” As an additional condition, the board of supervisors of
18 the county in which the tribe is located shall have approved, by
19 majority vote, a resolution permitting the proposed gaming
20 activity within the unincorporated area of the county.

21 (j) As to an Indian tribe that did not possess Indian land in
22 California on July 1, 2006, with regard to a compact with the
23 tribe for the operation of any gaming activity described in
24 subdivision (f) on or after July 1, 2006, the Governor shall not
25 conclude the compact unless that gaming activity, or any portion
26 thereof, has been approved in the manner set forth in paragraphs
27 (1) and (2) of subdivision (i) and, in addition, both of the
28 following apply:

29 (1) The land subsequently acquired, on which the gaming
30 activity is to be conducted, is not in an urban area.

31 (2) The Indian tribe’s primary geographic, social, and
32 historical connections relate to that land.

33 (k) Subdivisions (h) and (i) do not apply to the operation of
34 any gaming activity conducted on Indian land pursuant to a
35 compact negotiated, concluded, and ratified on or before July 1,
36 2006, or to the renegotiation, amendment, or extension of such a
37 compact, including the negotiation of a new compact following a
38 lapse, for gaming on that Indian land.

- 1 *(l) For the purposes of this section, “Indian land” has the*
- 2 *same meaning as set forth in the Indian Gaming Regulatory Act*
- 3 *(25 U.S.C. Sec. 2701 et seq.) as it read on July 1, 2005.*

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